

# Notice of Allowability

Application No.

09/727,637

Examiner

Tatyana Zalukaeva

Applicant(s)

MEDSKER ET AL.

Art Unit

1713

## -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to July 09/2003.
2. ☒ The allowed claim(s) is/are 1-22 and 75-78.
3. ☐ The drawings filed on \_\_\_\_\_ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
  - \* Certified copies not received: \_\_\_\_\_.
5. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
  - (a) ☐ The translation of the foreign language provisional application has been received.
6. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. **THIS THREE-MONTH PERIOD IS NOT EXTENDABLE**

7. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
8. ☐ CORRECTED DRAWINGS must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No. \_\_\_\_\_.
  - (b) ☐ including changes required by the proposed drawing correction filed \_\_\_\_\_, which has been approved by the Examiner.
  - (c) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No. \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet.

9. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

### Attachment(s)

- |  |   |
|--|---|
| 1 <input type="checkbox"/> Notice of References Cited (PTO-892)  | 2 <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)          |
| 3 <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                    | 4 <input type="checkbox"/> Interview Summary (PTO-413), Paper No. _____             |
| 5 <input type="checkbox"/> Information Disclosure Statements (PTO-1449), Paper No. _____               | 6 <input checked="" type="checkbox"/> Examiner's Amendment/Comment                  |
| 7 <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material | 8 <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
|  | 9 <input type="checkbox"/> Other _____  |

## EXAMINER'S COMMENT/REASONS FOR ALLOWANCE

### Examiner's Comment

1. Applicants' amendment after Final rejection has been entered. The amendment has overcome rejections under 35 USC 102 (e) and 103(a) for the reasons set forth below.

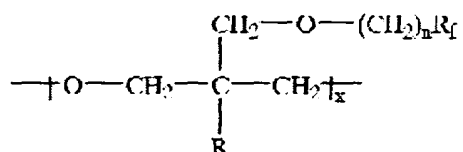
### Allowable Claims

2. Claims 1-22 and 75-78 (now renumbered as claims 1-26) are allowed over the prior art of record.

### Reasons for Allowance

1. The following is an examiner's statement of reasons for allowance: The closest prior art of record is Malik et al (6,448,368)

Malik discloses a hydroxyterminated FOX prepolymer and compositions containing such prepolymer represented by formula



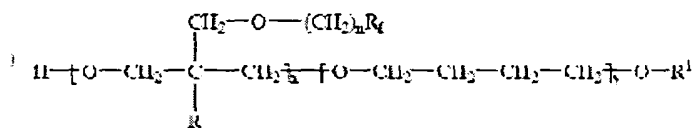
The FOX copolymer is disclosed in particular in col. 22, line 50

According to Malik the termination group R1 can be derived from initiator solvent that can be selected from the group consisting of ethylene glycol; butane-1,4-diol; propylene glycol; isobutane-1,3-diol; pentane-1,5-diol; pentaerythritol;

trimethylolpropane, **trifluoroethanol** and mixtures of at least two thereof. Malik further

Art Unit: 1713

teaches recovering as a reaction product said FOX prepolymer composition.



<sup>13</sup> C NMR analysis of the co-prepolymers revealed that these materials are random copolymers with little, if any, block structure.

This copolymer is readable on the copolymer of the instant claims .

<sup>13</sup> C NMR analysis of the co-prepolymers revealed that these materials are random copolymers with little, if any, block structure.

However, as instantly amended, claims call for the presence of non-initiator solvent in the amount of less than 10%, and as a result of such process limitation the obtained product has less than 10% of a cyclic oligomer. On the other hand, Malik utilizes at least 15% of such solvent, therefore allowing the amount of cyclic oligomer , which is out of the scope of the instant claims.

NO other prior art that anticipates or suggests fairly the instant claims has been located as of the date of this Office Action. Therefore, claims 1-22, 75-78 are allowed over the prior art of record.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Art Unit: 1713

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tatyana Zalukaeva whose telephone number is (703) 308-8819. The examiner can normally be reached on 9:00 - 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wu can be reached on (703) 305-2450. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0651.

  
Tatyana Zalukaeva  
Primary Examiner  
Art Unit 1713

September 4, 2003